

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered June 11, 2009.

(Deleted material is struck through and new material is underscored.)

Effective immediately, Supreme Court Rules 204, 501, 503, 526, 527, and 553 are amended and effective September 1, 2009, Supreme Court Rule 239 is amended, as follows.

Amended Rule 204

Rule 204. Compelling Appearance of Deponent

(a) Action Pending in This State.

(1) *Subpoenas.* Except as provided in paragraph (c) hereof, the clerk of the court shall issue subpoenas on request. The subpoena may command the person to whom it is directed to produce documents or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted under these rules.

(2) *Service of Subpoenas.* A deponent shall respond to any lawful subpoena of which the deponent has actual knowledge, if payment of the fee and mileage has been tendered. Service of a subpoena by mail may be proved prima facie by a return receipt showing delivery to the deponent or his authorized agent by certified or registered mail at least seven days before the date on which appearance is required and an affidavit showing that the mailing was prepaid and was addressed to the deponent, restricted delivery, return receipt requested, showing to whom, date and address of delivery, with a check or money order for the fee and mileage enclosed.

(3) *Notice to Parties, et al.* Service of notice of the taking of the deposition of a party or person who is currently an officer,

director, or employee of a party is sufficient to require the appearance of the deponent and the production of any documents or tangible things listed in the notice.

(4) *Production of Documents in Lieu of Appearance of Deponent.* The notice, order or stipulation to take a deposition may specify that the appearance of the deponent is excused, and that no deposition will be taken, if copies of specified documents or tangible things are served on the party or attorney requesting the same by a date certain. That party or attorney shall serve all requesting parties of record at least three days prior to the scheduled deposition, with true and complete copies of all documents, and shall make available for inspection tangible things, or other materials furnished, and shall file a certificate of compliance with the court. Unless otherwise ordered or agreed, reasonable charges by the deponent for production in accordance with this procedure shall be paid by the party requesting the same, and all other parties shall pay reasonable copying and delivery charges for materials they receive. A copy of any subpoena issued in connection with such a deposition shall be attached to the notice and immediately filed with the court, not less than 14 days prior to the scheduled deposition. The use of this procedure shall not bar the taking of any person's deposition or limit the scope of same.

(b) Action Pending in Another State, Territory, or Country.

Any officer or person authorized by the laws of another State, territory, or country to take any deposition in this State, with or without a commission, in any action pending in a court of that State, territory, or country may petition the circuit court in the county in which the deponent resides or is employed or transacts business in person or is found for a subpoena to compel the appearance of the deponent or for an order to compel the giving of testimony by the deponent. The court may hear and act upon the petition with or without notice as the court directs.

(c) Depositions of Physicians. The discovery depositions of nonparty physicians being deposed in their professional capacity may be taken only with the agreement of the parties and the subsequent consent of the deponent or under a subpoena issued upon order of court. A party shall pay a reasonable fee to a physician for the time he or she will spend testifying at any such deposition. Unless the physician was retained by a party for the purpose of rendering an opinion at trial, or unless otherwise ordered by the court, the fee shall be paid by the party at whose instance the deposition is taken.

(d) Noncompliance by Nonparties: Body Attachment.

(1) An order of body attachment upon a nonparty for noncompliance with a discovery order or subpoena shall not issue without proof of personal service of the rule to show cause or order of contempt upon the nonparty.

(2) The service of the rule to show cause or order of contempt upon the nonparty, except when the rule or order is initiated by the court, shall include a copy of the petition for rule and the discovery order or subpoena which is the basis for the petition for rule.

(3) The service of the rule to show cause or order of contempt upon the nonparty shall be made in the same manner as service of summons provided for under sections 2–202, 2–203(a)(1) and 2–203.1 of the Code of Civil Procedure.

Amended June 23, 1967, and amended October 21, 1969, effective January 1, 1970; amended September 29, 1978, effective November 1, 1978; amended July 1, 1985, effective August 1, 1985; amended November 21, 1988, effective January 1, 1989; amended June 19, 1989, effective August 1, 1989; amended June 1, 1995, effective January 1, 1996; amended June 11, 2009, effective immediately.

Amended Rule 239

Rule 239. Instructions

(a) Use of IPI Instruction; Requirements of Other Instructions. Whenever Illinois Pattern Jury Instructions (IPI) contains an instruction applicable in a civil case, giving due consideration to the facts and the prevailing law, and the court determines that the jury should be instructed on the subject, the IPI instruction shall be used, unless the court determines that it does not accurately state the law. Whenever IPI does not contain an instruction on a subject on which the court determines that the jury should be instructed, the instruction given in that subject should be simple, brief, impartial, and free from argument.

(b) Court's Instructions. At any time before or during the trial, the court may direct counsel to prepare designated instructions. Counsel shall comply with the direction, and copies of instructions so prepared shall be marked "Court's Instruction." Counsel may object at the conference on instructions to any instruction prepared at the

court's direction, regardless of who prepared it, and the court shall rule on these objections as well as objections to other instructions. The grounds of the objections shall be particularly specified.

(c) Procedure. Each instruction shall be accompanied by a copy, and a copy shall be delivered to opposing counsel. In addition to numbering the copies and indicating who tendered them, as required by section 2-1107 of the Code of Civil Procedure, the copy shall contain a notation substantially as follows:

"IPI No. ____" or "IPI No. ____ Modified" or "Not in IPI" as the case may be. All objections made at the conference and the rulings thereon shall be shown in the report of proceedings. The original instructions given by the court to the jury shall be taken by the jury to the jury room.

(d) Instructions Before Opening Statements. After the jury is selected and before opening statements, the court may orally instruct the jury as follows:

(i) On cautionary or preliminary matters, including, but not limited to, the burden of proof, the believability of witnesses, and the receipt of evidence for a limited purpose. ~~The court need not read these instructions after closing arguments.~~

(ii) On the ~~issue of~~ substantive law applicable to the case, including, but not limited to, the elements of the claim or affirmative defense. ~~The court shall read these instructions after closing arguments.~~

(e) Instructions After the Close of Evidence. After the close of evidence, the court shall repeat any applicable instructions given to the jury before opening statements and instruct the jury on procedural issues and the substantive law applicable to the case, including, but not limited to, the elements of the claim or affirmative defense. The court may, in its discretion, read the instructions to the jury prior to closing argument. Whether or not the instructions are read prior to closing argument, the court shall read the instructions to the jury following closing argument and shall at that time distribute a written copy of the instructions to each juror. Jurors shall not be given a written copy of the jury instructions prior to counsel concluding closing argument.

(f) Instructions During Trial. Nothing in this rule is intended to restrict the court's authority to give any appropriate instruction during the course of the trial.

Amended May 28, 1982, effective July 1, 1982; amended October 1,

1998, effective January 1, 1999; amended June 11, 2009, effective September 1, 2009.

Amended Rule 501

Rule 501. Definitions

(a) Bond Certificates. Bail security documents which also guarantee payment of judgments for fines, penalties and costs, not to exceed \$50 (auto bond certificates), or not to exceed \$250 (truck bond certificates), which are issued or guaranteed, in counties other than Cook, by companies or membership associations authorized to do so by the Director of Insurance, State of Illinois, under regulations issued by this court. (Note: Copies of these regulations may be obtained by writing to: Director, Administrative Office of the Illinois Courts, ~~Supreme Court Building~~ 3101 Old Jacksonville Road, Springfield, IL ~~62706~~ 62704-6488.) The privilege of issuing bond certificates for use in Cook County shall be governed by rule of the Circuit Court of Cook County. (Note: Copies of the Cook County rule may be obtained by writing to: Office of the Chief Judge, Richard J. Daley Center, Chicago IL 60602.)

(b) Cash or Cash Bail. United States currency; transfer of United States currency by means of credit cards, debit cards, or electronic fund transfer; traveler's checks issued by major banks or express companies which, alone or in combination with currency, total the exact amount required to be deposited as bail; and negotiable drafts on major credit card companies, under conditions approved by the Administrative Director.

(c) Conservation Offense. Any case charging a violation listed below, except any charge punishable upon conviction by imprisonment in the penitentiary:

(1) The Fish and Aquatic Life Code, as amended (515 ILCS 5/1-1 *et seq.*);

(2) The Wildlife Code, as amended (520 ILCS 5/1.1 *et seq.*);

(3) The Boat Registration and Safety Act, as amended (625 ILCS 45/1-1 *et seq.*);

(4) The Park District Code, as amended (70 ILCS 1205/1-1 *et seq.*);

(5) The Chicago Park District Act, as amended (70 ILCS 1505/ 0.01 *et seq.*);

(6) The State Parks Act, as amended (20 ILCS 835/ 0.01 *et seq.*);

(7) The State Forest Act, as amended (525 ILCS 40/ 0.01 *et seq.*);

(8) The Forest Fire Protection District Act, as amended (425 ILCS 40/ 0.01 *et seq.*);

(9) The Snowmobile Registration and Safety Act, as amended (625 ILCS 40/1–1 *et seq.*);

(10) The Endangered Species Protection Act, as amended (520 ILCS 10/1 *et seq.*);

(11) The Forest Products Transportation Act, as amended (225 ILCS 740/1 *et seq.*);

(12) The Timber Buyers Licensing Act, as amended (225 ILCS 735/1 *et seq.*);

(13) The Downstate Forest Preserve District Act, as amended (70 ILCS 805/ 0.001 *et seq.*);

(14) The Exotic Weed Act, as amended (525 ILCS 10/1 *et seq.*);

(15) The Hunter Interference Prohibition Act, as amended (720 ILCS 125/ 0.01 *et seq.*);

(16) The Ginseng Harvesting Act, as amended (525 ILCS 20/ 0.01 *et seq.*);

(17) The Cave Protection Act, as amended (525 ILCS 5/1 *et seq.*);

(18) Any regulations, proclamations or ordinances adopted pursuant to any code or act named in this Rule 501(c);

(19) Ordinances adopted pursuant to the Counties Code for the acquisition of property for parks or recreational areas (55 ILCS 5/5–1005(18)).

(d) Driver’s License. A current driver’s license certificate issued by the Secretary of State of Illinois. However, restricted driving permits, judicial driving permits, instruction permits, probationary licenses or temporary licenses issued under chapter 6 of the Illinois Vehicle Code, as amended (625 ILCS 5/6–100 *et seq.*) shall not be accepted in lieu of or in addition to bail amounts established in Rule 526.

(e) Unit of Local Government. Any county, municipality, township, special district, or unit designated as a unit of local government by law.

(f) Traffic Offense. Any case which charges a violation of any statute, ordinance or regulation relating to the operation or use of motor vehicles, the use of streets and highways by pedestrians or the operation of any other wheeled or tracked vehicle, including cases charging violations under chapter 6 of the Illinois Vehicle Code, as amended (625 ILCS 5/6–100 *et seq.*), but excluding cases in which a ticket was served by “tie-on,” “hang-on,” or “appended” methods and cases charging violations of:

- (1) Section 9–3(b) of the Criminal Code of 1961, as amended (reckless homicide) (720 ILCS 5/9–3(b));
- (2) Section 12–5 of the Criminal Code of 1961, as amended (reckless conduct) (720 ILCS 5/12–5);
- (3) Article I of chapter 4 of the Illinois Vehicle Code, as amended (anti-theft laws) (625 ILCS 5/4–100 *et seq.*);
- (4) Any charge punishable upon conviction by imprisonment in the penitentiary;
- (5) “Jay walking” ordinances of any unit of local government;
- (6) Any conservation offense (see Rule 501(c)).

(g) Promise to Comply. An option available to residents of other member jurisdictions of the Nonresident Violator Compact of 1977 (625 ILCS 5/6–800 *et seq.*) to obtain release from custody without bail following arrests on view for minor traffic offenses (see 625 ILCS 5/6–306.4(a)) by signing a written promise to comply with the terms of the Uniform Citation and Complaint (625 ILCS 5/6–306.4). Residents of Illinois, and nonresidents charged with traffic offenses specified in section 6–306.4(b) of the Illinois Vehicle Code, as amended (625 ILCS 6–306.4(b)), shall not be released on a promise to comply, but must post bail or secure release in accordance with these rules.

(h) Individual Bond. Bonds authorized without security for persons arrested for or charged with offenses covered by Rules 526, 527 and 528 who are unable to secure release from custody under these rules (see Rule 553(d)).

Amended effective October 7, 1970; amended January 31, 1972, effective March 1, 1972; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended March 27, 1985, effective May 1, 1985; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended December 7, 1990, effective January 1, 1991; amended June 12, 1992,

effective July 1, 1992; amended May 24, 1995, effective January 1, 1996; amended September 30, 2002, effective immediately; amended June 11, 2009, effective immediately.

Committee Comments

(June 11, 2009)

Paragraph (b)

The Committee defines a credit card or debit card as follows: any instrument or device whether known as a credit card, secured credit card, charge plate, prepaid card, debit card, automated teller machine card, smart card or by any other name issued, with or without fee, by an issuer for the use of the card holder, to obtain credit, money, goods, services, or anything else of value. (Source: Illinois Credit Card and Debit Card Act (720 ILCS 250/2.03, 2.15) and Local Governmental Acceptance of Credit Cards Act (50 ILCS 345/10)).

The Committee defines “electronic fund transfer” as a nonpaper transaction that is electronically processed for the purpose of instructing or authorizing a financial institution to debit an account for the purpose of posting bail consistent with these rules.

Amended Rule 503

Rule 503. Multiple Charges Under These Rules

(a) Amount of Bail–Hearing Date. Police officers should refrain from issuing multiple citations for offenses arising out of the same occurrence. A person arrested and charged with more than one offense arising out of the same occurrence when the bail is established for each such offense under Rule 526, 527 or 528 shall be released from custody as follows:

(1) If bail for each such offense is established by Rule 526, and the accused is eligible for release on each charge by a promise to comply pursuant to section 6–306.4 of the Illinois Vehicle Code, as amended (625 ILCS 5/6–306.4), he or she may elect to be released by executing the written promise on the complaint copy; a court appearance shall be required on each charge.

(2) In all other cases, the accused shall be released from custody after posting bail on the charge for which the highest bail is required, and, except as provided below, a court appearance shall be required on each charge. Whether a court appearance will be required for any other offenses charged at the same time as an offense requiring bail under Rule 526(b)(1) will be determined without regard to such truck violations. A separate bail shall be required for each case involving truck violations under Rule 526(b)(1) or similar municipal ordinances, and all such charges may be satisfied without a court appearance under Rule 529.

(3) No court appearance shall be required under this rule where all charges are traffic and conservation offenses which may be satisfied without a court appearance under Rule 529 and the accused elects to post separate cash bail on each such charge.

(4) No court appearance shall be required under this rule where all charges are traffic offenses which may be satisfied without a court appearance under Rule 529, the separate bails required for all such charges do not exceed \$300, and the accused has deposited an approved bond certificate in lieu of bail; in such event, if the accused does not appear on the date set for appearance, or any date to which the case(s) may be continued, it shall be presumed he has elected to post separate bails and consented to the entry of *ex parte* judgment on each such charge (see Rule 556(b)).

All such charges, whenever practicable, should be set for hearing on the same day in the same court, to be disposed of at the same time (see Rule 501(b) for definition of “Cash Bail”).

(b) New Bail–Application of Bail and Return of Balance. After final disposition of a charge for which bail was posted, the court shall set new bail in a single amount to cover any concurrent charges which may be continued for further hearing at a future date. The clerk may apply any cash or security originally posted as bail to payment of any fine, penalties and costs due on the charge for which bail was originally posted or any other charge disposed of at the same time, but shall return any remaining balance to the accused and shall not retain the balance to apply, in whole or in part, to any new bail set by the court, without the consent of the accused.

Amended effective October 7, 1970; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended

June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended December 7, 1990, effective January 1, 1991; amended June 12, 1992, effective July 1, 1992; amended September 30, 2002, effective immediately; amended June 11, 2009, effective immediately.

Amended Rule 526(b)

Rule 526. Bail Schedule—Traffic Offenses

(a) Bail in Minor Traffic Offenses. Unless released on a written promise to comply and except as provided in paragraphs (b), (c), (d) and (f) of this rule a person arrested for a traffic offense and personally served by the arresting officer with a Citation and Complaint shall post bail in the amount of \$75 in one of the following ways: (1) by depositing, in lieu of such amount, his current Illinois driver's license; or (2) by depositing, in lieu of such amount, an approved bond certificate; or (3) by posting \$75 cash bail (see Rule 501(b) for definition of "Cash Bail").

(b) Bail in Certain Truck Offenses.

(1) Persons charged with a violation of section 15–111 of the Illinois Vehicle Code, as amended (truck overweight) (625 ILCS 5/15–111), charged with a violation of section 15–112(f) of the Illinois Vehicle Code, as amended (gross weight) (625 ILCS 5/15–112(f)), or charged with a violation punishable by fine pursuant to sections 15–113.1, 15–113.2 or 15–113.3 of the Illinois Vehicle Code, as amended (permit moves) (625 ILCS 5/15–113.1 *et seq.*), shall post cash bail in an amount equal to the amount of the minimum fine fixed by statute, plus penalties and costs (see Rule 501(b) for definition of "Cash Bail"). The accused may, in lieu of cash bail, deposit a money order issued by a money transfer service company which has been approved by the Administrative Director under regulations issued by this court. The money order shall be made payable to the clerk of the circuit court of the county in which the violation occurred. When the bail for any offense hereunder does not exceed \$300, the accused may, at his option, deposit a truck bond certificate in lieu of bail.

(2) Persons charged with violating section 15–112(h) of the Illinois Vehicle Code, as amended, by refusing to stop and submit a vehicle and load to weighing after being directed to do so by an officer, or with violating section 15–112(h) by removing all or part of the load prior to weighing shall post bail in the amount of

\$750 (625 ILCS 5/15–112(g)).

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Amended effective October 7, 1970; amended January 31, 1972, effective March 1, 1972; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended September 29, 1978, effective November 1, 1978; amended September 20, 1979, effective October 15, 1979; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended March 27, 1985, effective May 1, 1985; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended January 11, 1990, effective immediately; amended December 7, 1990, effective January 1, 1991; amended June 12, 1992, effective July 1, 1992; amended September 27, 1993, effective October 1, 1993 ; amended April 11, 2000, effective immediately; amended September 30, 2002, effective immediately; amended December 5, 2003, effective immediately; amended May 30, 2008, effective immediately; amended June 11, 2009, effective immediately.

Amended Rule 527(a)

Rule 527. Bail Schedule–Conservation Offenses

(a) General. Except as provided in paragraphs (b), (c), (d), (e), (f), (g) and (h) of this Rule 527, a person arrested for a conservation offense and personally served by the arresting officer with a conservation complaint shall post cash bail in the amount of \$75 (see Rule 501(b) for definition of “Cash Bail”).

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Amended effective October 7, 1970; amended January 31, 1972, effective March 1, 1972; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended December 22, 1981, effective January 15, 1982; amended April 27, 1984, effective July 1, 1984; amended March 27, 1985, effective May 1, 1985; amended June 26, 1987, effective August 1, 1987; amended June 19, 1989, effective August 1, 1989; amended June 12, 1992, effective July 1, 1992; amended September 30, 2002, effective immediately; amended December 6, 2006, effective immediately; amended June 11, 2009, effective immediately.

Rule 553. Posting Bail or Bond

(a) By Whom and Where Taken. The several circuit clerks, deputy circuit clerks and law enforcement officers designated by name or office by the chief judge of the circuit are authorized to let to bail any person arrested for or charged with an offense covered by Rules 526, 527 and 528. Upon designation by the chief judge of the circuit, bail may be taken in accordance with this article in any county, municipal or other building housing governmental units, police station, sheriff's office or jail, or district headquarters building of the Illinois State Police. Bail deposits by credit card, debit card or by any other electronic means may only be accepted upon the approval of the chief judge and the circuit clerk's ability to accept such deposits. Individual bonds under paragraph (d) of this rule may additionally be taken as designated by the chief judge of the circuit.

(b) Copy of Bond–Receipt for Cash Bail. A carbon copy of the bond or an official receipt showing the amount of cash bail posted, specifying the time and place of court appearance, shall be furnished to the accused and shall constitute a receipt for bail. The bond or cash bail, or both, shall be delivered to the office of the circuit clerk of the county in which the violation occurred within 48 hours of receipt or within the time set for the accused's appearance in court, whichever is earlier (see Rule 501(b) for definition of "Cash Bail").

(c) Driver's License or Bond Certificate. If an accused deposits a driver's license with the arresting officer in lieu of bail or in addition to bail, or deposits a bond certificate, the arresting officer shall note that fact on the accused's copy of the ticket and transmit the driver's license or bond certificate to the clerk within the time provided in paragraph (b) of this rule.

(d) Individual Bond. Persons arrested for or charged with an offense covered by Rules 526, 527 and 528 who are unable to secure release from custody under these rules may be released by giving individual bond (in the amount required by this article) by those law enforcement officers designated by name or office by the chief judge of the circuit, except when the accused is unable or unwilling to establish his identity or submit to being fingerprinted as required by law, or elects release on separate bail under Rule 503(a)(3). If authorized by the chief judge of the circuit, individual bonds under this paragraph (d) may be executed by signing the citation or complaint agreeing to comply with its conditions.

(e) Alternative Procedure in Minor Cases–Counties Other Than Cook. In any case arising in counties other than Cook, in which the bail or bond specified by Rule 526, 527 or 528 does not exceed

\$105 in United States currency, an accused not required to be fingerprinted may place the cash bail or deposit (in the amount required by such rule) in a stamped envelope (to be provided by the arresting officer) addressed to the clerk of the circuit court of the county in which the violation occurred and, in the presence of the arresting officer, deposit that envelope in a United States ~~Government~~ Postal Service mail box. The accused shall then be released from custody. The appropriate portion(s) of the ticket shall be enclosed with the cash bail or deposit. In rural areas where ~~U.S. government~~ United States Postal Service mail boxes are not reasonably available, the accused may elect to deposit with a State Police officer, an enforcement officer of the ~~State Department of Conservation~~ Department of Natural Resources or Secretary of State, or a sheriff or a deputy sheriff, or other law enforcement officers designated by name or office by the chief judge of the circuit, the sealed envelope containing the cash bail or deposit, rather than having to accompany the arresting officer to the nearest mail box. In such cases, the officer will mail or deliver the sealed envelopes to the clerk of the circuit court before the end of his current tour of duty.

Amended effective October 7, 1970; amended February 17, 1977, effective April 1, 1977, in counties other than Cook, effective July 1, 1977, in Cook County; amended October 17, 1979, effective November 15, 1979; amended December 22, 1981, effective January 15, 1982; amended June 26, 1987, effective August 1, 1987; amended December 7, 1990, effective January 1, 1991; amended June 12, 1992, effective July 1, 1992; amended May 24, 1995, effective January 1, 1996; amended June 11, 2009, effective immediately.